

EXHIBIT B

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11842-PBS

SCOTT RODGERS, :
Plaintiff :
v. :
CORRECTION OFFICER ORCHID, :
UNKNOWN CORRECTION OFFICER :
JOHN DOE, JOE WHITMORE, :
DOCTOR HOWARD, JOHN SMITH, :
PLYMOUTH COUNTY, :
Defendants :

DEPOSITION OF SCOTT RODGERS, taken on behalf of the Defendants, pursuant to the applicable provisions of the Federal Rules of Civil Procedure, before Carol A. Fierimonte, Certified Shorthand Reporter and Notary Public within and for the Commonwealth of Massachusetts, (#134693), at the Norfolk County Correctional Facility, 20 West Street, Dedham, Massachusetts, on Thursday, December 29, 2005, commencing at 10:20 a.m.

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(617) 227-3097

1 Q. We are here today in connection with a
2 lawsuit that you brought against certain
3 correctional personnel. Correct?
4 A. Mm-hmm.
5 Q. Yes?
6 A. Yes.
7 Q. Okay.
8 A. I have to say yes. I am sorry.
9 Q. Okay. Just for clarification.
10 A. Yes. Sorry.
11 Q. Now, sir, we are here, sir, on August --
12 was there an occasion, sir, at the
13 Plymouth County Correctional Facility when
14 you sought treatment for a stomach
15 ailment?
16 A. Well, it is not like I looked for
17 treatment. I got sick, real sick from the
18 medication they gave me, and I was in the
19 cell and I was asking them to help me
20 because my stomach was so messed up. And
21 they wouldn't help me. The CO's kind of
22 like ignored me.
23 Q. Do you know when it was that that
24 happened?

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1 A. Exact date, no.
2 Q. If I were to suggest that you have alleged
3 in a complaint that it happened on August
4 26th of 2001, would that refresh your
5 memory?
6 A. The way I could really -- yes, maybe. But
7 the way I could really know is the next
8 day was when I was in the hospital. I
9 could look that up because I ended up at
10 Jordan Hospital.
11 Q. Okay.
12 MR. CLARK: 8/21?
13 MR. BREEN: 26th.
14 MR. CLARK: Thank you.
15 Q. On the day that you were first
16 incarcerated at the Plymouth County House
17 of Correction, was that the first time in
18 your life that you have been incarcerated
19 or no?
20 A. No, no, no.
21 Q. On how many occasions before your
22 incarceration at the Plymouth House of
23 Correction had you done time in jail
24 whether as a pretrial --

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1 Oxycontin. We're not allowed to give that
2 in here." And I says, "What do you mean?"
3 I says, "I have a prescription for this,
4 I've been on it for a while. I'm having
5 surgeries on my leg." And I told him
6 about the injuries. And he says, "I can't
7 give you that, but I can give you
8 something just as good as that that will
9 work." And he says, "I'll give you
10 Naprosyn."
11 So I says, "Will it take the pain
12 away?" He goes, "Yes, it's a painkiller."
13 I says, "Well, then fine, if that's what
14 works, if that's all I can get, I'll take
15 what I can get rather than give me
16 nothing."
17 So he gave me that and I started
18 taking it. The nurse was coming around
19 twice a day. They would give it to me,
20 but they would give it to me crushed.
21 They would crush it and then make you
22 drink it, eat it in front of them, and
23 then they would check your mouth.
24 I would say like maybe three

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1 weeks, a little over, almost four weeks
2 after that, I was taking it, my stomach
3 started really really bothering me and I
4 couldn't eat good. You know, it was just
5 my stomach was upset and just was like
6 hurting. But it was a weird, a weird
7 feeling. So I told the nurse a couple of
8 times and she said, "It's just because
9 you're off the medication, it's the food."

10 You know, they kept giving me
11 different reasons why my stomach would be
12 bothering me and, you know, I just kept
13 complaining. Every time they came in I
14 said, "I think it's the medication."

15 And it ended up one nurse told
16 me, she goes, "It can't be the
17 medication." She goes, "If you don't want
18 it, sign off." And I said, "Well," I
19 says, "What do you mean it can't be the
20 medication?" She goes, "It can't, that
21 won't do that to you."

22 So she gave me Maalox to take.
23 She says your stomach will feel better.
24 She gave me Maalox in a little cup. So I

1 I went back in. I took some
2 fruit, I think, it's all I could put in my
3 mouth, just to get something in my mouth.
4 It was apple sauce or something like that.
5 I don't remember what it was. And
6 anyways, I ended up back in my cell.

7 My cellmates started giving me
8 shit, "You need to see the doctor, you
9 need to see the doctor." I said, "I
10 can't, they won't let me see him." And
11 then the CO said, "Wait until medication
12 comes around, you'll see the nurse then,
13 you can see the nurse."

14 So then the nurse came, it was
15 like at nine o'clock or something. I went
16 to see the nurse, told them what was going
17 on. It was Joe Whitmore. And he's like,
18 you know, he goes, "I can't do nothing for
19 you, the doctor's not here today, there's
20 no doctor here today." He says, "You got
21 food poisoning is what it is."

22 I go, "Food poisoning? I'm a
23 chef. I've had food poisoning before and
24 it's never nothing like this." He goes,

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1 "It's just the medication and you got food
2 poisoning, here's more Maalox, take the
3 Maalox."

4 So he was giving me Maalox. So
5 then I went back in the cell and laid
6 down. I was too weak to do anything. My
7 roommate brought me some water and stuff.
8 I don't know how much time went by. It
9 was like about I think it was at
10 lunchtime, I said something to him again
11 and he got pissed off at me. And the guy
12 cussed at me, the CO yelled at me and told
13 me to get, his words, excuse me, "Get the
14 fuck away from me," he goes, "I don't want
15 what you got."

16 So I just kind of got away from
17 him and then I went back in my cell. And
18 finally, I came back out at like 12. I
19 said, "Listen, man, I'm going to die." I
20 was at the point where I thought I was
21 going to die. I had been throwing up for
22 like 12 hours. So he called down to
23 medical and they said, Yes, let him come
24 down.

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1 I was sitting on the floor, next
2 to the floor. And he goes, "Well, you've
3 got to get the fuck up and go because you
4 if you don't go you're going to go in the
5 hole." So I got up and I just leaned
6 against the wall and crawled all the way
7 down to the elevator, went downstairs in
8 the elevator and the guy yelled at me in
9 the elevator to try to stand up. I was
10 trying to sit down because I was so sick.

11 I finally made it to medical. I
12 laid down on the floor in medical. And
13 then Joe Whitmore, the nurse, came out and
14 he took my blood pressure. As soon as he
15 took my blood pressure, he just dropped
16 it, took off running, called 911 because I
17 had no blood pressure. And I bled out so
18 much blood, I had no blood pressure. And
19 some officers came in there and they
20 stripped all my clothes off, put some
21 tear-away clothes on me, some orange
22 tear-away like has that Velcro and they
23 chained me up. And they put me in a
24 wheelchair and took me to a van, one of

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the vans they take you to the court in, ones you sit up in. And they threw me in there long ways on the ground, on the floor of it. And then they just took off as fast as they could to get me to the hospital.

Q. Okay.

A. And that's pretty much it. I got to the hospital and they took me out of the van like I'm a kind of like a piece of luggage. They had me held by chains, carrying me, three of them, and then they dropped me on the floor when I came into the medical, into the emergency room right by the door. And then the doctor yelled at them to get me up on a gurney and then they checked me. He checked me.

He just started working on me, giving me blood and IV's. They just started working on me real fast, sticking hoses down me to get the blood stopped and get blood back in me.

Q. Okay. Who is John Smith, if you know?

A. He is the Medical Director of Plymouth

pressure.

Q. Okay. Now, going back, though, you don't know whether Mr. Smith was involved in any of the events that you have described, do you?

A. No. One thing that happened with him is I had wrote him earlier about the medication. When I told the nurse that I said something is wrong with me and they were crushing my meds, I had wrote him letters and he never answered me.

Q. Do you have any of those letters, copies of them?

A. They've got them.

Q. Do you have any copies of those letters?

A. They won't let you copy here. You can't use a copier machine.

Q. Who are the letters that you wrote about the medication addressed to?

A. Doctor Smith.

Q. You understand that Mr. Smith is a doctor?

A. That's what I was told. That's what I was led to believe.

Q. Did you write letters --

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A. He was the medical director so I figured he was a doctor.

Q. I see. Did you write letters about your medication to anyone other than John Smith?

A. Just the medical, not to one set person. I put letters in. I told the nurse numerous times.

Q. What nurse did you tell numerous times?

A. There was one lady I remember in particular. I don't know her name. She is kind of tall. She has red hair and she wears glasses.

Q. Okay.

A. I don't know her name off the top of my head. She is probably maybe 60 years old. And she kept telling me, "If you don't take it, sign off; but if you sign off, a doctor can't help you," is what she kept telling me.

Q. Okay. You have no evidence, Mr. Rodgers, that John Smith was aware that you were feeling sick on the 25th and 26th before you arrived at the medical office, do you?

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That is why I wrote letters to Mr. Smith and I wrote letters just to medical ... requesting to see a doctor.

Q. And you didn't file a grievance for that medicine, did you?

A. Yes, I filed grievances.

Q. Did you file grievances before you got sick on the 25th?

A. Yes, yes, I did. Because nobody would answer me. I filed a grievance, I filed a grievance because nobody would answer my, my letters.

Q. Did you file --

A. They sent me back one. I think I gave it to them, the grievance, that said that, that there were certain things that are wrong with me and I am trying to see a doctor. And they wouldn't pay attention. They wouldn't even address my problems. They wouldn't do anything.

Q. The grievance you filed had to do with your leg injury, correct, the surgery you wanted?

A. No, not that time. I filled out a bunch

of grievances against them.

Q. Do you recall specifically, sir, filing a grievance concerning the stomach discomfort you were feeling before you got sick on the 25th of August, 2001?

A. No. I filed a grievance before that, a grievance because they wouldn't listen to the letters I was sending to them about my stomach.

Q. Okay.

A. That was my grievance. They wouldn't answer my letters. The grievance wasn't about the -- they wouldn't answer my letters about the stomach.

Q. Okay.

A. The medication.

Q. What did the letters that you wanted answered say?

A. That I was just feeling, you know, sick to my stomach. I wasn't feeling right. I had these weird chill feelings. I didn't feel right. I couldn't eat right. I was always thirsty. I just was something wrong, I knew something was wrong and they

go over his head to get somebody to make them see you." They said, "That's when you see Mr. Smith." I said, "Who is Mr. Smith?" They said, "He's the medical director."

So I wrote a letter to Mr. Smith.

Q. So you had not written any letters to Mr. Smith at all until somebody had told you who he was, right after you had filed your grievance?

A. I didn't write him. Just to the medical department.

Q. When you would write him it would be addressed to who, medical department?

A. I would put medical request. That is all I would put on it. I would put from Scott Rodgers, the date.

Q. What would you do with those letters?

A. Give them to the nurse. She said they would bring them down.

Q. To what nurse did you give those letters?

A. A few of them. I don't know exactly which ones. I know I gave one to Joe Whitmore. I gave one to Linda. I even gave a couple

to the lady, the red haired lady because she got mad when I would give them to her.

Q. All right. To which nurse did you give the grievance you have described?

A. Oh, I don't remember.

Q. Do you know if it was a male or female nurse?

A. It was a female, I'm pretty sure.

Q. What did she look like?

A. I don't remember. I know it was kind of a touchy time because the CO's were getting mad at me for doing it. You know, even like they were like you shouldn't do it, you know, there are other ways to do it. And I said, "I've done it the other ways, I've tried to write and get on sick call."

They said, "You know this is going to alienate you from medical," like kind of because they get mad when you do this.

Q. Who was it that said that to you?

A. I don't know the CO's name.

Q. What did that person look like who said that medical gets mad if you file a grievance?

get a request or try to get, you know, a solution to something.

Q. Okay.

A. But I think they were kind of upset because of the fact that I went to medical and medical told me what they'd do and weren't going to do. And then I'm asking them about medical and they are going, Hey, you know, why are you asking us, medical takes care of medical or whatever. It's like you're imposing on their privacy or something or their time.

Q. You don't really know what they are feeling at the time, do you, Mr. Rodgers? Is that an assumption on your part?

A. No. I can pretty much say when they're not feeling too good or not too happy. They're kind of miserable.

Q. Do you know any of the things that were making these people unhappy at the time?

A. No, no.

Q. Now, up to the point in time when you began to feel sick and vomited on the 25th of August or thereabouts, had you made any

1 complaints other than the fact that you
2 felt nauseous when you took your medicine,
3 that you felt nauseous or ill or didn't
4 feel right as you have described?
5 A. As far as my stomach, no. I just kept
6 telling them, I said something wasn't
7 right. I knew something wasn't right.
8 That's all.
9 Q. You had not expressed any type of
10 remarkable pain up to that point in time,
11 did you?
12 A. No, no. Just a very sick nauseous
13 feeling.
14 Q. Okay. Did you ask --
15 A. Something that I never felt before.
16 Q. Up to the point in time that you got sick
17 on the 25th of August, had you asked
18 anyone to go to the emergency room right
19 away because of the way your stomach felt?
20 A. Prior to that day, no, no. I asked to see
21 the doctor that night before the night
22 when it started real bad. And I asked, I
23 said I need to see a doctor. I need to go
24 to the hospital or something, I need to

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1 her she was by your door?

2 A. She was coming by. When they go in and do
3 counts, they come by, grab the handles,
4 make sure the doors are locked.
5 Q. What did you do when you saw her?
6 A. I just asked her if I could talk to her.
7 I said I needed medical help, I wanted to
8 talk to her. She came up to the door and
9 she is like, What's the matter? And I
10 explained to her I am sick, I am throwing
11 up. I told her about how I felt. And
12 first she told me just, you know, lay
13 down, drink some water, you'd be able to
14 see medical in the morning. I said it's
15 bad, I kept saying I need to see a doctor.
16 She goes, "There is no doctor here,"
17 something like that, "At night," she says,
18 "The nurse is downstairs." And I said,
19 "Can you call the nurse?" And she's like
20 yes, and she just left. And then --
21 Q. Okay. So that was what happened during
22 your first discussion with Officer Orchid,
23 right?
24 A. Yes.

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1 Q. Do you recall anything else that she said
2 to you?
3 A. No.
4 Q. Do you recall anything else that you said
5 to her?
6 A. No.
7 Q. And at that time Officer Orchid said she
8 was going to call the nurse for you?
9 A. Yes.
10 Q. Do you know whether she did so?
11 A. Nothing happened for like an hour or so.
12 It was a good while. And she came by
13 again and I asked her, you know, Did you
14 call the nurse? She says, "I called down
15 there for you," she goes. You know, I
16 don't know if she said they're busy or
17 something, she goes, "I can't make them
18 come up." And I said, "I'm really sick,"
19 I said, "I feel real sick like, you know,
20 I'm going to die or something." She says,
21 "You're not going to die," like that.
22 Q. Okay?
23 A. And she told me to lay down, just take it
24 easy.

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1 Q. Okay. Do you recall anything else that
2 you said to Officer Orchid at that time?
3 A. No. Just --
4 Q. Okay.
5 A. I know I told her a few times I was really
6 sick. I said just I think I am throwing
7 up blood. She asked -- I think she asked
8 me how I knew it was blood. I said
9 because the way it looks in the water.
10 And she goes, "Well, I will call medical."
11 She said she would call medical again. I
12 think she did call them again or she said
13 she did call them again, but I don't know
14 if she did or didn't. And nobody ever
15 came back up or nothing.
16 Q. Okay. So you recall telling Officer
17 Orchid specifically that you thought you
18 were throwing up blood?
19 A. Yes. I said I got something in my -- I
20 said I'm throwing up, and I go and it
21 looks like coffee grounds, I think it's
22 blood.
23 Q. You're sure you told that to Officer
24 Orchid?

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And he goes, "What's the matter?"

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Re: Rodgers vs. Orchid, et al

I, SCOTT RODGERS, do hereby certify that I have read the foregoing transcript of my testimony and further certify that it is a true and accurate record of my testimony (with the exception of the following changes listed below):

Signed under the pains and penalties of perjury this _____ day of _____, 2006.

poisoning. And he gave me Maalox.

I said, "You mean to tell me there's no doctor in this building?" He says, "No, there's no doctor." So he goes here's a -- he gave me one thing of Maalox and he gave me an extra thing of Maalox. He says, "Just take this, go lay down, just drink a lot of water and you will be all right."

Q. Did Mr. Whitmore -- you told Mr. Whitmore

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I, Carol A. Fierimonte, a Notary Public within and for the Commonwealth of Massachusetts, duly commissioned, qualified and authorized to administer oaths and to take and certify depositions, do hereby certify that heretofore, on the date cited above, the witness personally appeared before me at the above location and testified in the above-captioned case; that the said witness was by me duly sworn to testify to the truth, the whole truth and nothing but the truth; that thereupon and while said witness was under oath, the deposition was taken down by me in machine shorthand at the time and place therein named and was reduced to typewriting thereafter.

I further certify that I am not interested in the event of this action.

Notary Public in and for the
Commonwealth of Massachusetts

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